

**CUSTOMER'S MOTION TO CHALLENGE GOVERNMENT'S ACCESS  
TO FINANCIAL RECORDS IN THE UNITED STATES  
DISTRICT COURT**

FOR THE EASTERN DISTRICT OF VIRGINIA  
(Name of District) (State In Which Court Is Located)

<u>NICHOLAS S. BERRYMAN</u> (Your Name)	)	Miscellaneous No. (Will be filled in by Court Clerk)	1:16-MC-0001 CMH/IDD.
Movant	)	MOTION FOR ORDER PURSUANT TO CUSTOMER CHALLENGE PROVISIONS OF THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.	
V.	)		
Department of Defense	)		
Respondent	)		

NICHOLAS S. BERRYMAN hereby move this Court pursuant to  
(Your Name)

Section 3410 of the Right to Financial Privacy Act of 1978, 12 United States Code 3401, et seq. for an order preventing the Government from obtaining access to my financial records. The agency seeking, access is the Department of Defense.

My financial records are held by NAVY FEDERAL CREDIT UNION.  
(Name of Institution)

In support of this motion, the Court is respectfully referred to my sworn statement filed with this motion.

Respectfully submitted,

nfb 30 DEC 15  
(Your Signature)

STOCKENBERGWEG 32, 73732 ESSLUNGEN GERMANY  
(Your Address)

(49) 01624344950  
(Your Telephone Number)

# Addendum A

December 30, 2015 Vaihingen, Germany

Legal basis for objection to subpoena with unique ID 2016102-14292

Requesting activities in Mr. Nicholas Berryman (and joint tenant spouse) regarding bank account number - Navy Federal Credit Union 1612530715

Bank account disclosure items in this subpoena objected to: 1-9 (ALL)

**1. Financial Right to Privacy** allows for refusal to consent.

Also, the bank customer's spouse (joint tenant in accounts listed) is neither a member of the U.S. Military nor party to this case, negating any legal cause to permit disclosure of personal and private bank account activities.

**2. PRIVILEGE-Spouse**-This subpoena seeks privileged information as the named bank customer's joint tenant is a spouse and therefore rejects this subpoena as violation of spouse privilege to not participate, give testimony or produce any written documents. The spouse will not be compelled to participate in disclosure of any requested bank account activities listed in the subpoena (1-9).

**3. 4th Amendment Rights**

Assert this subpoena a violation of the named bank account customer and the joint tenant customer's rights.

**4. Gramm-Leach-Bliley Act (“GLBA”)-** this subpoena seeks production of bank customers’ “nonpublic information” in contravention of GLBA

**5. Defective-Parts** of this subpoena are defective according to both Federal and the State of Virginia's laws.

Defects;

-Distance to appear exceeds 150 miles travel

- Excessive burden, Expenses.

-A subpoena for a witness to attend a hearing or trial must be issued from the district court where the hearing or trial will be held. FED. R. CIV. P. 45(a)(2)(A).

**6. Procedure**

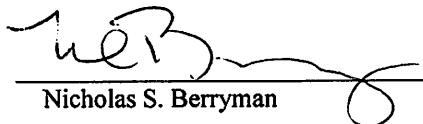
Federal Rules of Civil Procedure

Improper service.

The document received shows no date of service or mail certification to the recipient initiating a 10 day period to reply and refuse consent.

Rules for issuing and servicing a subpoena to a U.S. national or resident who is in a foreign country. FED. R. CIV. P. 45(b)(3); 28 U.S.C. § 1783.

The named bank customer resides in Germany.

  
Nicholas S. Berryman

30 DEC 15

Date

**United States of America  
Department of Defense  
Office of the Inspector General**

**SUBPOENA DUCES TECUM**

TO Custodian of Records, Navy Federal Credit Union, ATTN: Legal/Subpoena Compliance, 820 Follin Lane, Vienna, Virginia 22180

YOU ARE HEREBY COMMANDED TO APPEAR BEFORE Special Agent Anthony Augustyn, or any Special Agent of the United States Army Criminal Investigation Command (USACIDC) acting on behalf of the Inspector General, pursuant to the Inspector General Act of 1978 (5 U.S.C. App. 3), at USACIDC, Stuttgart CID Office, Building 2307, Patch Barracks, Stuttgart, Germany, Unit 30401, APO AE 09107-0401 on the 31st day following the financial institution's receipt of this subpoena at 10 o'clock a.m. of that day.

You are hereby required to bring with you and produce at said time and place the following information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence pertaining to Navy Federal Credit Union account number: 1612530715, held solely or jointly by Nicholas S. Berryman, Social Security number: XXX-XX-4361, an active duty member of the United States Navy, who is suspected of violating one or more punitive Articles of the Uniform Code of Military Justice, for the period October 2, 2013 through the date of this subpoena, as specified in Appendix A, which are necessary in the performance of the responsibility of the Inspector General under the Inspector General Act.

**IN TESTIMONY WHEREOF**, the signature of the duly authorized representative of the Inspector General of the Department of Defense is affixed at Alexandria, Virginia.



Digitally signed by  
STONE.RANDOLPH.R.1259992415  
DN: c=US, o=U.S. Government, ou=DoD,  
ou=PKI, ou=DODIG,  
cn=STONE.RANDOLPH.R.1259992415  
Date: 2015.12.14 09:18:07 -05'00'

Randolph R. Stone  
Deputy Inspector General for Policy and Oversight

**CUSTOMER'S SWORN STATEMENT FOR FILING A CHALLENGE  
IN THE UNITED STATES DISTRICT COURT**

FOR THE EASTERN DISTRICT OF VIRGINIA  
(Name of District) (State In Which Court Is Located)

NICHOLAS S. BERRYMAN) Miscellaneous No. \_\_\_\_\_  
(Customer's Name) ) (Will be filled in by Court Clerk)  
 )  
 Movant )  
 )  
 )  
 V. ) SWORN STATEMENT OF MOVANT  
 )  
 )  
 Department of Defense ) FINANCIAL PRIVACY ACT OF 1978  
 )  
 )  
 Respondent )

I, NICHOLAS S. BERRYMAN, (am presently/was previously) a customer of  
(Customer's Name) (Show One)

NAVY FEDERAL CREDIT UNION, and I am the customer whose records are  
(Name of Financial Institution)

being requested by the Government.

The financial records sought by the Department of Defense are not relevant to the legitimate law enforcement inquiry stated in the Customer Notice that was sent to me because \_\_\_\_\_  
\_\_\_\_\_, or should not be disclosed because \_\_\_\_\_  
there has not been substantial compliance with the Right to Financial Privacy Act of 1978 in that \_\_\_\_\_

or should not be disclosed on the following other legal basis: REASONS ARE LISTED ON

ADDENDUM A. SEE ADDENDUM A

I declare under penalty of perjury that the foregoing is true and correct.

DEC 30, 2015  
(Month) (Day) (Year)

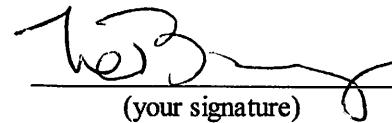
  
(Customer's Signature)

**CERTIFICATE OF SERVICE**

I have mailed or delivered a copy of this motion and the attached sworn statement to

VIRGINIA EASTERN DISTRICT COURT on DEC 30 2015

(name of the office listed in item 2 of customer notice) (month, day) (year)

  
\_\_\_\_\_  
(your signature)